

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking for the Purpose of Amending  
General Order 156.

Rulemaking 03-02-035  
(Filed February 27, 2003)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER  
AND ADMINISTRATIVE LAW JUDGE**

**1. Summary**

This ruling and scoping memo confirms the categorization and scope set forth in the Order Instituting Rulemaking (OIR), after the prehearing conference held on June 25, 2003. Also, per the OIR, hearings are not necessary.

**2. Category of Proceeding**

The OIR preliminarily categorized this proceeding as quasi-legislative; no party has objected to this categorization and we confirm it. This categorization ruling may be appealed under the provisions of Rule 6.4(a) of the Commission's Rules of Practice and Procedure (Rules).

**3. Presiding Officer**

President Michael R. Peevey and Administrative Law Judge (ALJ) Janet A. Econome are assigned to this proceeding. Pursuant to Rule 5(k)(3), the assigned Commissioner is the presiding officer in a quasi-legislative proceeding except that the assigned ALJ shall act as the presiding officer in the Commissioner's absence at any hearing other than a formal hearing as defined in Rule 8(f)(2).

#### **4. Scope and Schedule**

The scope of this rulemaking is whether General Order 156 should be amended as set forth in the OIR.

The OIR set forth a procedural schedule. Some of the events (parties' comments, etc.) have occurred. For instance, the parties filed opening comments on June 10, 2003, and reply comments on July 7. Also, many of the utilities named as respondents in the OIR have filed the report requested in the OIR. We confirm the following procedural schedule of the remaining events in this OIR.

Issuance of Draft Decision	No later than October 6, 2003
Comments on Draft Decision	20 days after issuance of draft decision
Reply Comments on Draft Decision	5 days after comments filed
Final Decision	No earlier than 30 days after issuance of draft decision

#### **5. The Need for Hearings**

The Greenlining Institute and Latino Issues Forum (Greenlining/LIF) believe either evidentiary or public participation hearings are necessary to ensure that the final decision of this rulemaking fully embraces General Order 156's intent to promote women, minority, and disabled veteran business enterprises (WMDVBE) and to ensure WMDVBE's progress. Greenlining/LIF state that the issue of material fact necessary to explore is whether the utilities' failure to identify WMDVBE suppliers of particular products and services is supportable, as well as to determine which expenditures are included in the utilities' gross procurement dollars.

In their reply comments to the rulemaking, Greenlining/LIF also state that hearings are necessary to (1) determine what steps utilities have taken in identifying WMDVBEs; (2) explore the reasonableness of the utilities'

justifications of WMDVBE exclusions over the years; (3) obtain full participation of minorities, women and the disabled who do not have the resources to fully participate in Commission proceedings; (4) explore the differences in utility types if it is argued that there are difficulties in comparing the exclusions across different utility industries; and (5) determine whether the utilities' use of reporting WMDVBE expenditures according to the Uniform System of Accounts would be confusing to WMDVBE suppliers.

In its reply comments, Southern California Edison Company (Edison) also states that hearings could be useful to explore the disparities among the utilities as to how the General Order 156 data is reported to the Commission. Also, Edison states it welcomes the opportunity to justify the exclusions it has utilized in its General Order 156 reports.

No other party at the prehearing conference supported holding hearings. The Joint Utilities<sup>1</sup> state that most of the issues are policy related and that, to the extent there are factually specific questions, they can be explored in workshops. SBC California (Pacific Bell) agrees, because this is a forward-looking rulemaking establishing rules on a prospective basis. Pacific Bell believes that hearings could be counterproductive, polarize the parties, and consume time and money with little benefit.

We believe hearings are not necessary at this time because there are no material issues of fact necessary to ascertain before determining whether to

---

<sup>1</sup> The Joint Utilities include AT&T Communications of California, Inc., Citizens Telecommunications Company of California, Pacific Gas and Electric Company, PacifiCorp, Roseville Telephone Company, San Diego Gas & Electric Company, Sierra Pacific Power Company, Southern California Gas Company, Southwest Gas Corporation, Verizon California Inc. and WorldCom, Inc.

amend General Order 156 as set forth in the OIR. To the extent factually specific questions may arise, a workshop may be a more appropriate forum. We are not inclined to hold public participation hearings at this juncture to receive policy comment on the OIR because interested persons can file written comments or send letters to the Commission. Although such hearings may make it easier for some persons to comment, filing written comments or letters is appropriate in this instance where there are no material issues of fact necessary to determine.

**IT IS RULED** that:

1. This rulemaking is categorized as quasi-legislative.
2. The scope and schedule for this rulemaking are set forth in Section 4.
3. Hearings are not necessary in this rulemaking.

Dated August 25, 2003, at San Francisco, California.

/s/ MICHAEL R. PEEVEY  
Michael R. Peevey  
Assigned Commissioner

/s/ JANET A. ECONOME  
Janet A. Econome  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated August 25, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN

Helen Friedman

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.